

REMARKS

In response to the office action dated May 24, 2006, Applicant amended claim 21. Claims 1-21 are presented for examination.

Claims 1-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Erden (U.S. Patent No. 5,026,563). Claim 1 covers a method including inserting food into a bag that includes "a ventilated, reclosable closure...allowing an amount of air into and out of the bag with the bag in a closed position." The closure includes "an array of male fastener elements with stems extending from a base and heads arranged to engage a field of fibers." Independent claim 13 covers a prepackaged food product including "a bag comprising...a first fastening region having...an array of fastener elements with stems extending from the base...and...a second fastener region having...an array of fastener-engageable loops extending from the base." The first and second regions define therebetween "an air vent...with the bag in the closed position." Van Erden neither discloses nor suggests a closure that includes an array of fastener elements with stems, as claimed. Van Erden also fails to disclose or suggest a ventilated, reclosable closure or fastening regions that define an air vent therebetween.

Van Erden describes a plastic film bag that contains foodstuffs, such as stacked slices of bacon or meat. See, e.g., col. 1, lines 54-55. A zipper closure is provided in a mouth of the bag to allow the bag to be reclosed. See, e.g., col. 1, lines 55-58. The zipper closure is formed from rib and groove type fastener strips. See, e.g., col. 1, lines 58-60. Van Erden explains that the rib and groove type fastener strips provide a seal to prevent passage of air between the atmosphere and the bag contents. See, e.g., col. 3, lines 46-54.

As noted above, Van Erden does not disclose a closure that includes an array of fastener elements with stems, as claimed. Instead, Van Erden's bag includes a rib and groove type closure. Furthermore, a person of ordinary skill in the art at the time of Applicant's invention would not have been motivated to utilize a closure with an array of fastener elements configured to engage loops or fibers or configured to be engaged by loops or fibers. As described by Applicant, such an array of fastener elements can help to provide a ventilated, easily alignable closure. See, e.g., Application, p. 3, line 26 – p. 4, line 12. However, as discussed above, Van

Erden's closure was intended to provide a seal to prevent passage of air between the atmosphere and the bag contents. See, e.g., col. 3, lines 46-54.

The Examiner also contended in the office action that it would have been obvious to one of ordinary skill in the art to provide a shortened zipper closure in Van Erden's bag for ventilation of the bag. However, the Examiner has provided no evidence to support this contention and, as discussed above, Van Erden describes his rib and groove type closure as providing a sealing function to prevent air from passing between the atmosphere and the bag contents. Therefore, Van Erden actually suggests that the type of modification set forth by the Examiner would be undesirable. Furthermore, even if such a modification were made to Van Erden's bag, the modified bag would still not include an array of fastener elements, as claimed.

For at least the reasons discussed above, Applicant requests reconsideration and withdrawal of this rejection.

Claims 1, 3, and 17 were rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-19 of Clune (U.S. Patent No. 6,991,375) in view of Van Erden. Applicant is providing a terminal disclaimer and a statement of common ownership herewith. Therefore, Applicant requests reconsideration and withdrawal of this rejection.

Claims 1, 3, and 17 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Clune in view of Van Erden. As noted above, Applicant is providing a terminal disclaimer and a statement of common ownership herewith. Therefore, Applicant requests reconsideration and withdrawal of this rejection.

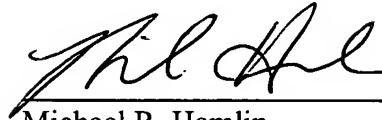
Please apply any charges or credits to deposit account 06-1050.

Applicant : William H. Shepard et al.
Serial No. : 10/688,720
Filed : October 15, 2003
Page : 9 of 9

Attorney's Docket No.: 05918-309001 / VGCP 5070

Respectfully submitted,

Date: July 21, 2006



Michael R. Hamlin
Reg. No. 54,149

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21381683.doc